IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

FAO.No.1228 of 1987

DATE OF ORDER:

Gurmeet Singh and Others

...Petitioner(s)

Versus

Bhagwan Kaur and Another

....Respondent(s)

CORUM : HON'BLE MR. JUSTICE M.M. AGGARWAL

.*.*.*.

Present: Mr. Inderjit Sharma, Advocate.

None for respondent-objector.

M.M. AGGARWAL,J

This is an appeal against award dated 3.8.1987 passed by MACT, Patiala whereby Rs.1,20,000/- had been awarded as compensation payable to the complainant on account of death of Harnek Singh having taken place due to the injuries suffered in the accident. Vide that award, Rs.18,000/- had also been awarded due to the damage of the Jeep.

The facts of the case are that Harnek Singh was driving Jeep on 29.7.1986 on Sirhind Patiala road. Then a bus being driven by respondent Gurmit Singh now appellant had come from opposite side and from the wrong side of the road and dashed against the jeep. Harnek Singh was

thrown out of the driver's window from the jeep with the impact of collision. The driver stopped the bus after causing the accident. Then another private bus came in which Harnek Singh was removed to Rajindra Hospital where he was admitted and treated. This occurrence was witnessed by Jaspal Singh and Gurdev Singh, who were on the motor cycle. Harnek Singh had got multiple injuries on the head and on the hip. He remained under treatment and ultimately died on 3.1.1987. Motor Accident Claims Tribunal had found that the accident/death took place due to rash and negligent driving of bus by Gurmit Singh. This bus was insured with National Insurance Company. It was also found that Harnek Singh had died due to the injuries received in the accident. Therefore, compensation of Rs.1,20,000/- was awarded for death of Harnek Singh apart from compensation of Rs.18,000/-, which was awarded due to damage of the Jeep.

This appeal was filed on the ground that the accident was not proved. It was further argued that Harnek Singh died after six months of the accident and it could not be said that the death was due to accident. It was also argued by counsel for the appellant that the liability of the Insurance Company was limited to Rs.6000/- as far as damage to the vehicle was concerned.

In this case, cross objections had been filed on behalf of Bhagwan Kaur for enhancement of compensation of Rs.2,80,000/- but then none had appeared for Bhagwan Kaur as respondent in this appeal and also in the objections filed by Bhagwan Kaur.

PW1 Bhupinder Singh had proved the factum of accident whereas PW3 Dr. Avtar Singh had stated that this Harnek Singh was

admitted in the Rajindra Hospital on 29.7.1986 with head injury and dislocation of left hip joint. He was treated and then discharged on 7.8.1986 but he had further stated that it was quite possible that the death might have resulted due to head injury. PW4 Doctor Karam Singh had stated that this Harnek Singh was re-admitted on 1.1.1987 at 12.35 PM. He was operated upon and then died on 3.1.1987. He had stated that the possibility of pus formation in the paritonium cavity could be due to an injury in the abdomen and leading to haematoma formation. PW1 Bhupinder Singh son of Harnek Singh had stated that the deceased was aged about 50-52 years although he was discharged after 8-9 days of the accident from the hospital but he had not recovered and he was got admitted in the hospital in January 1987. He had stated that the Jeep had got damaged.

Insurance in this case was not denied.

In the present case, Harnek Singh remained alive for about six months. He had not fully been recovered from to the injuries. When the injuries was so serious and he died on 3.1.1987 then it is to be presumed that during all this period of six months, amount was being spent for his treatment. Certain bills had been produced on the file. MACT while calculating compensation had assessed the loss to be Rs.8000/- per annum and then had applied multiplier of 14 and this was calculated to be 1,12,000/-. He had further awarded Rs.8000/- for treatment etc.

In the facts and circumstances of the case, this compensation cannot be called to be, in any way, on the higher side.

As far as damage to the Jeep was concerned, claimant had produced bills Ex.A28 to A45 for getting Jeep repaired. These bills were of an amount of Rs.17,663-73/- therefore Rs.18,000/- had been awarded on

this score.

In this case, National Insurance Company had been directed to pay all the compensation. However, as per Section 147(2)(b), the liability of Insurance Company to pay compensation in respect of damage to the property of third party is Rs.6,000/- only whereas the owner and driver of the offending vehicle are liable to pay remaining compensation.

Under these circumstances while dismissing the appeal, it is directed that National Insurance Company i.e respondent No.3 shall be liable to pay the compensation to the complainant except that in respect of damage to the jeep, their liability will be limited to Rs.6000/- and the remaining amount of Rs.12,000/- shall be paid by Gurmit Singh driver and Patiala Bus Service, Sirhind owner of the offending vehicle.

Objections are also dismissed.

November 16, 2006 (M.M. AGGARWAL)
manoj JUDGE